

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2573 OF 2004

IN

SUIT NO.2485 OF 2004

Rachit J. Shah through natural guardian and
next friend Jyotindra Shah.

... Plaintiff.

vs.

Jayesh B. Nagda.

... Defendant.

Ms.Rekha Shinde, for Plaintiff.

Mr.V.R.Dhond with Sanjay Kadam i/b. Kadam & Co.,for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 8th July,2005

P.C.:-

1. This is a Notice of Motion taken out by the plaintiff for order of attachment before judgment of the property of the defendant. Perusal of the affidavit in support of notice of motion shows that though the plaintiff has stated that the defendant has vacated the residential premises which were owned by him and also the business premises which were also owned by him

and moved to rented premises, there is no reliable material produced on record to show that the defendant intends to dispose of the property. There is also no averments made in the affidavit that defendant is taking steps to dispose of the property in order to defeat the execution of decree that may be passed against him in the suit. In the absence of necessary averments and material produced before the Court showing that the defendant is likely to dispose of the property in order to defeat the execution of decree that may be passed against him, the order of attachment before judgment which has drastic consequences, cannot be made. Hence, the notice of motion is disposed of.
